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DEPT FOR OES/PCI - L.SPERLING AND F.COLON
DEPT FOR OES/ENCR - S.CASWELL AND C.KARR-COLQUE
DEPT FOR OES/EGC - D.NELSON AND T.TALLEY
DEPT FOR WHA/EPSC - L.KUBISKE

E.O. 12958: N/A

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SUBJECT: BRAZIL'S DEFORESTATION CYCLE (PART 3 of 3): GOVERNMENT HAS LIMITED ABILITY TO BREAK THE CYCLE

REF: (A) BRASILIA 224, (B) BRASILIA 229

¶1. (U) THIS CABLE IS SENSITIVE BUT UNCLASSIFIED AND NOT FOR INTERNET DISTRIBUTION.

¶2. (SBU) SUMMARY. The Government of Brazil (GOB) has a limited ability to use "sticks," various law enforcement measures to control deforestation. Even if it could obtain the tools it currently lacks (sufficient law enforcement units, clear proof of violations, judges willing to penalize, etc.), a massive crackdown would border on political suicide. Illegal deforestation has benefited many, possibly millions, in the Amazon; an estimated 80% of the approximately 730,000 square kilometers that has been cleared since the 1970's was done illegally. The Congress would be up in arms with a serious campaign against illegal deforestation; 33% of the Senators and 18% of the Chamber of Deputies come from the Amazon. The federal government has not yet tried "carrots" to halt deforestation. Meanwhile, the GOB has a variety of programs that result in clearing forests, even though that is not the intended goal of these measures (e.g., the constitutional requirement that an owner must make "productive" use of agricultural land).

¶3. (SBU) This is the last cable in a three-part series on deforestation. While we identify serious problems confronting the GOB's efforts to control deforestation, it does not follow that the situation is hopeless. The GOB in fact has had a critical success with what sometimes is referred to as "constrangimento" or "guilty conscious" policy: raising environmental consciousness about deforestation in the political class. Further, several policies and measures either have recently been introduced or are under consideration which could in the long run markedly help control deforestation: (a) improving forest management, especially with a new Forest Service law that established a system for granting forest concessions to responsible companies; (b) improving the land title registry system; and (c) lowering the Forest Code requirement that 80% of forest on private property be conserved, which has been such a high standard that it has left most ranchers and farmers in the Amazon outside of the law. END SUMMARY.

¶4. (SBU) Government policies of establishing settlements in the Amazon alongside roads and soft agriculture credits contribute to deforestation, as do plans to construct additional highways and dams. There are changes afoot that could lead to a permanent reduction in the deforestation rate. The most important are: land cadastration or registry programs, new forest management regimes, improved monitoring and enforcement, and certification programs. Moreover, the Congress is considering modifying the Forest Code, which could transform vast numbers of ranchers and farmers into

law-abiding citizens. END SUMMARY.

MODEST "STICKS" AND NO "CARROTS"

¶ 15. (SBU) GOB officials have consistently spoken out against the illegal deforestation of the Amazon (which for this cable means the Legal Amazon, a region of nine states that encompasses about 60% of the country). When a report was released at the end of January indicating a sharp rise in deforestation in the last five months of 2007, President Lula called an emergency cabinet meeting to consider the problem. To date, the GOB has not developed "carrots" to encourage the residents of the Amazon not to illegally clear the land. In 2007, the isolated, northern State of Amazonas announced the "Sustainable Amazona" fund with R40 million (over US\$20 million) to encourage residents of that state living on forest reserves (not private property) to not clear the land. It is too early to say how effective it will be or whether it might be transferable to other states. In short, at this time there are practically no "carrots" or positive incentives for residents of the Amazon not to deforest.

¶ 16. (SBU) The January 24 emergency cabinet meeting adopted a number of "sticks" or punitive measures. The GOB would send in about 800 more Federal Police to combat environmental crimes, it would strengthen controls over the livestock and agriculture sectors (supposedly requiring proof that these agricultural goods were not the result of illegal deforestation), requiring re-registration of land titles and better monitoring at 36 municipalities with high-rates of deforestation, and helping state governments to monitor and combat deforestation. President Lula recently acknowledged that the federal agency responsible for enforcing the environmental laws (IBAMA) might not be up to the task and said that "For this reason, I don't think IBAMA alone should be responsible for enforcement." Thus, the Federal Police and to some extent the Brazilian Army are asked to assist.

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¶ 17. (SBU) COMMENT. More federal agents on the ground is a step forward, however, there are weaknesses throughout the system - lack of judges, difficulties in proving violations, long appeals process, and then inability to collect fines. Paulo Barreto, a senior researcher at the respected NGO IMAZON, estimated that only two to three percent of fines imposed on illegal loggers are ever collected. It is commonly accepted that law enforcement until now has been practically non-existent. All in all these new measures are more than symbolic, but not by much. They are likely to end up as more proclamations from Brasilia without sustained, effective actions to back them up. END COMMENT.

¶ 18. (SBU) While the GOB decries deforestation, several of its policies do result inevitably in clearing forested land in the Amazon. These policies include:

- Improving roads and infrastructure projects pursuant to the GOB's Program for Acceleration of Growth (PAC). For example, the PAC envisions building two hydroelectric plants on the Rio Madeira near Bolivia, which are estimated to bring in as many as 100,000 new settlers to that region.
- Establishing new settlements by the National Institute for Colonization and Agriculture Reform's (INCRA) in the Amazon. The GOB continues with its program of developing settlements for the poor and landless alongside of roads constructed in the Amazon.
- Requiring an owner to make "productive" use of the land or risk losing it under Articles 184 and 185 of the Brazilian Constitution. The widely held view is that keeping a standing forest is not considered a productive use.
- Providing soft agriculture credits even though the majority of agricultural land was illegally cleared. The emergency cabinet meeting initially proposed cutting off credits to those who could not prove they had legally acquired their land. Subsequently, President Lula exempted small farmers and ranchers and INCRA settlers from this measure.

THE POLITICAL LIMITATIONS

¶9. (SBU) Stark political realities limit what a government can do to control deforestation in the Amazon. While there are no exact figures, it is commonly thought that at least 80% of the deforestation in the Amazon is illegal, which means at least 580,000 square kilometers of the 730,000 square kilometers cleared since the 1970's was done illegally. Thus, a campaign against those involved or benefiting from illegal deforestation could affect huge numbers, possibly in the millions. Furthermore, the Amazon has tremendous clout in the Congress. Although only 13% of Brazilians live in the Amazon, the region has 33% of the Senators and 18% of the Deputies in the Chamber of Deputies. COMMENT. Since President Lula's Labor Party (PT) and allied parties have only a slim majority in the Senate, he cannot afford to have such a large block up in arms. Antagonizing the "Amazon block" by actions that threaten large numbers of their voters and important economic interests would also put into jeopardy other GOB priorities requiring legislative approval. END COMMENT.

THE SUCCESSFUL "CONSTRANGIMENTO" POLICY

¶10. (SBU) The national governments since the return of democracy in 1985 have accomplished a critical feat, without which the prospects for eventually controlling deforestation of the Amazon would be very bleak indeed. President Lula's administration and those that preceded it have in one generation changed the view of the political elites about the value of the Amazon. Previously, the political class considered the Amazon forest as a burden, something that had to be cleared to make it productive. This view was held towards the Atlantic Forest, which has been reduced to just 7% of its original size, and many still hold it today towards the vast Cerrado (or savannah) region, where 40% has been cleared in just a matter of decades. Although less than 20% of the Amazon has been cleared (REFTEL A), today politicians of all stripes pay homage - whether they believe it or not - to sustainable development and protecting the Amazon.

¶11. (SBU) This consciousness raising was the work of years, but it has come to fruition under Lula. Environment Minister Marina Silva refers to this as the "constrangimento" or "self-consciousness" policy, which causes people not to want to be seen as destroying the

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forest (something akin to the efforts to shame those who litter in the United States). The Governor of Mato Grosso and so-called "King of Soy", Blario Maggi, is a good example of the success of this policy. His state has cleared more of the Amazon than any other. Still, Maggi is sensitive on this issue. He was quick to deny that his state is responsible for the ongoing deforestation. A generation ago you would expect to see him proudly being photographed next to a bulldozer.

OTHER POSITIVE DEVELOPMENTS

¶12. (SBU) The GOB has a number of policies that are being introduced or under consideration that could significantly help to control illegal deforestation. Three notable ones are:

-- Improved forest management pursuant to the new Forest Service Law. The GOB plans to award long-term concessions to logging companies that will take responsibility for managing and preserving the forest. These concessions will allow harvesting of trees, but in a rationale, sustainable manner. More importantly, these concessions should create entities that have an economic interest in protecting the forest and preventing illegal deforestation. The first concession process is underway in the State of Rondonia, and others are scheduled to follow.

-- Land Registry. President Lula asserted last fall that the Amazon had an "owner", however, to this day the question of title to land in the Amazon is a murky subject. Most of the land in the Amazon belongs to the national government, yet one often hears how ranchers and farmers end up - in some mysterious way - with papers that suggest they may have title. There seems to be a greater focus by the GOB on clearing up title and land cadastration to determine what

are the property boundaries. Mark Lundell of the World Bank in Brazil views addressing the lack of clarity on land title as a top priority. What is evident is that there has been no "owner" preventing illegal loggers, ranchers and farmers from logging, clearing and using vast swaths of the Amazon.

- Revising the Forest Code to allow more productive use of land. In 1996, President Fernando Henrique Cardoso issued a "Provisory Measure" revising Article 44 of the Forest Code to require a landowner in the Amazon to preserve 80% of the land, versus the 50% requirement then in the law. Knowing that the Congress with the large Amazon contingent would block enactment of the law, the Provisory Measure was reissued 67 times to keep it in effect, until 2001 when the procedure was changed to require Congress to vote on any Provisory Measures. This Provisory Measure was never brought up for a vote, however, the GOB has treated it as having legal effect. Now, the GOB is considering reducing the conservation requirement back to 50%. If this were to happen, then it might be possible for large numbers of ranchers and farmers who are out of compliance with the 80% requirement to come in from the cold. Such a move could make dealing with the past - and preventing future - deforestation on a more manageable scale. Environmental groups in Brazil are divided on this step. Greenpeace views it as a sell-out; Friends of the Earth consider it a pragmatic and constructive step. The question of "amnesty" for deforesters continues to generate a heated debate within and outside government circles.

¶113. (SBU) COMMENT. As with illegal immigration in the United States, illegal deforestation in the Amazon leaves the national government with two main problems to address - preventing future illegal activity and sorting out the status of those who acted illegally in the past. At the same time, meeting the economic imperatives of Brazil ranging from reliable electricity supply to farmland to viable transport routes to enhance economic growth in an environmentally sustainable way remains a political and practical challenge for Brazil. These are complex problems and there are powerful political constraints limiting the government's room for action. Nonetheless, the GOB has scored a major success with its "constrangimento" or "guilty conscious" policy and has laid the ground for possible future actions that would seriously address these issues. The GOB has some of the tools in hand already (such as land registry, modern forest management, and better law enforcement) and is considering others (such as modifying the land use rules). If these measures were followed through, the rate of deforestation could come down significantly over the long-term. The GOB is clearly under significant domestic (such as from Environment Minister Silva and the media) and international pressure to address deforestation in a serious manner. However, it is too early to say whether this level of pressure is sufficient to persuade the GOB to use its limited political capital to take on this daunting task.

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END COMMENT.

SOBEL